

Message Text

LIMITED OFFICIAL USE

PAGE 01 OECD P 07206 01 OF 02 111544Z

ACTION OES-06

INFO OCT-01 EUR-12 IO-13 ISO-00 NSF-01 AID-05 CEA-01
CIAE-00 COME-00 EB-08 EA-07 FRB-03 INR-07 NEA-10
NSAE-00 USIA-06 OPIC-03 SP-02 TRSE-00 LAB-04 SIL-01
AGRE-00 OMB-01 L-03 OIC-02 /096 W
-----111632Z 126219 /50

R 111513Z MAR 77

FM USMISSION OECD PARIS

TO SECSTATE WASH DC 5674

INFO USMISSION GENEVA

LIMITED OFFICIAL USE SECTION 01 OF 02 OECD PARIS 07206

E.O. 11652: N/A

TAGS: OECD, TECH, HETRD

SUBJECT: GROUP B MEETING ON CODE OF CONDUCT FOR
TRANSFER OF TECHNOLOGY IN AD HOC POLICY GROUP ON MNES
OF OECD COMMITTEE ON SCIENCE AND TECHNOLOGY POLICY,
MWRCH 7-9

1. SUMMARY. THREE FULL AND HIGHLY PRODUCTIVE DAYS OF
SUBJECT MEETING RESULTED IN EXPANDED AND NEAR TO
UNANIMOUS GROUP B POSITION IN PREPARATION FOR UNCTAD
MEETING MARCH 28-APRIL 5 OF THE GROUP OF EXPERTS ON A
CODE OF CONDUCT FOR TRANSFER OF TECHNOLOGY. GROUP B
UNANIMOUSLY AND WITHOUT RESERVATION REASSERTED ITS
POSITION THAT LEGALLY BINDING INSTRUMENT REGULATING
THE INTERNATIONAL TRANSFER OF TECHNOLOGY WAS UN-
ACCEPTABLE AND CODE MUST BE ENTIRELY VOLUNTARY AND
UNIVERSAL IN SCOPE, I.E. NOT RESTRICTED TO TECHNOLOGY
TRANSFERS FROM DEVELOPED TO DEVELOPING COUNTRIES.
(ON LATTER POINT. THE NORDICS WOULD INCLUDE STRONG
LANGUAGE WHICH TAKES SPECIAL ACCOUNT OF THE LDCE).
THESE FUNDAMENTAL POSITIONS WERE REFLECTED IN REVISED
TEXTS AGREED TO AD REFERENDUM ON PREAMBLE, DEFINITIONS
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 OECD P 07206 01 OF 02 111544Z

AND SCOPE OF APPLICATION, OBJECTIVES AND PRINCIPLES,
AND SPECIAL MEASURES FOR LDCE. IT IS PLANNED THAT
THESE DRAFT PROPOSALS WILL BE FORMALLY INTRODUCED AT
THE NEXT UNCTAD SESSION. A SEPARATE GROUP B WORKING
GROUP ON RESTRICTIVE BUSINESS PRACTICES (RBPS) AGREED
TO A PAPER WHICH ELABORATES EXPANDED GROUP B PRINCIPLES
(THERE ARE NOW 11 INSTEAD OF 8), AND INCLUDES AN

ANALYSIS OF THE POSITION TO BE TAKEN VIS-A-VIS THE GROUP OF 77 PROPOSALS. THIS PAPER WILL BE UTILIZED AS AMMUNITION BY GROUP B IN THE UNCTAD NEGOTIATIONS. END SUMMARY.

2. PREAMBLE. A CONCISELY WORDED TEXT WAS AGREED TO WHICH RECOGNIZES THE FUNDAMENTAL ROLE OF SCIENCE AND TECHNOLOGY IN THE DEVELOPMENT OF ALL COUNTRIES, PARTICULARLY LDCS, AND THE BENEFITS OF A UNIVERSAL CODE WHICH SETS FORTH EQUITABLE PRINCIPLES BASED ON MUTUAL RESPECT FOR THE INTERESTS OF ALL PARTIES. IT RECALLS UNGA RESOLUTIONS WHICH STRESS FACILITATION OF LDC ACCESS TO THE ENHANCEMENT OF SCIENCE AND TECHNOLOGY AS WELL AS THE CREATION OF INDIGENOUS TECHNOLOGY. IT EXPRESSES THE BELIEF THAT THE CODE CAN CREATE CONDITIONS TO ASSIST LDCS IN THE SELECTION, ACQUISITION AND USE OF TECHNOLOGY, AS WELL AS CONDITIONS CONDUCIVE TO INCREASED TRADE AND INVESTMENT. IT ENDS STATING THAT THE CODE CONSISTS OF "GUIDELINES" FOR THE INTERNATIONAL TRANSFER OF TECHNOLOGY.

3. DEFINITIONS. THE AGREED TEXT FOLLOWS VERY CLOSELY THE U.S. PROPOSAL CIRCULATED PRIOR TO THE MEETING. ONE MAJOR STUMBLING BLOCK WAS THE DIFFICULT PROBLEM OF DEFINING THE JURISDICTION OF SOURCE AND RECIPIENT GOVERNMENTS. NO ACCEPTABLE FORMULA WAS DEVISED AND IT WAS AGREED TO LEAVE THIS SUBJECT OPEN AND MERELY REFER TO "GOVERNMENTS" WHERE NECESSARY. THERE WAS FULL AGREEMENT THAT THE CODE IS TO BE UNIVERSAL IN SCOPE, AND TO COVER PUBLIC AS WELL AS PRIVATE ENTITIES. THE LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 OECD P 07206 01 OF 02 111544Z

GROUP ALSO UNANIMOUSLY SUPPORTED U.S. VIEW THAT THE INTERNATIONAL NATURE OF A TECHNOLOGY TRANSFER WAS DETERMINED BY WHETHER OR NOT TECHNOLOGY CROSSED NATIONAL BOUNDARIES, RATHER THAN G-77 VIEW THWT TEST WAS WHETHER ONE OF PARTIES TO TRANSFER HAD FOREIGN OWNERSHIP OR CONTROL.

4. OBJECTIVES AND PRINCIPLES. A TEXT OF 7 OBJECTIVES AND 7 PRINCIPLES, COVERED BY A CHAPEAU, WAS AGREED TO. THESE INCLUDE RECOGNITION OF THE PARTICULAR NEEDS AND PROBLEMS OF LDCS, ENCOURAGEMENT AND FACILITATION OF ACCESS TO TECHNOLOGY UNDER REASONABLE AND MUTUALLY AGREED TERMS AND CONDITIONS, GROWTH OF THE SCIENTIFIC AND TECHNOLOGICAL CAPABILITIES OF ALL COUNTRIES, FORMULATION OF NATIONAL LAWS AND POLICIES, THE VOLUNTARY

LIMITED OFFICIAL USE

NNN

LIMITED OFFICIAL USE

PAGE 01 OECD P 07206 02 OF 02 111525Z
ACTION OES-06

INFO OCT-01 EUR-12 IO-13 ISO-00 NSF-01 AID-05 CEA-01
CIAE-00 COME-00 EB-08 EA-07 FRB-03 INR-07 NEA-10
NSAE-00 USIA-06 OPIC-03 SP-02 TRSE-00 LAB-04 SIL-01
AGRE-00 OMB-01 L-03 OIC-02 /096 W
-----111632Z 126047 /50

R 111513Z MAR 77
FM USMISSION OECD PARIS
TO SECSTATE WASH DC 5675
INFO USMISSION GENEVA

LIMITED OFFICIAL USE SECTION 02 OF 02 OECD PARIS 07206

NATURE OF A CODE WHICH DOES NOT DEROGATE FROM INTER-
NATIONAL LAW OR TREATIES, FREEDOM OF THE PARTIES TO
NEGOTIATE, RESPECT FOR INDUSTRIAL PROPERTY, AND OTHERS.

5. SPECIAL MEASURES FOR LDCS. AN IMPROVED AND SLIGHTLY
EXPANDED TEXT WAS PREPARED WHICH ELABORATES SPECIAL
MEASURES WHICH DEVELOPED COUNTRY GOVERNMENTS SHOULD
TAKE IN THE AREAS OF INFORMATION, TRAINING, R&D, ACCESS
TO GOVERNMENT OWNED TECHNOLOGY, ETC. UNDER OFFICIAL
DEVELOPMENT ASSISTANCE PROGRAMS DCS SHOULD TAKE INTO
ACCOUNT THE TECHNOLOGICAL NEEDS OF LDCS.

6. RESTRICTIVE BUSINESS PRACTICES. A SEPARATE GROUP
OF RBP EXPERTS WORKED ON DOCUMENT TO BE USED AS BACK-
GROUND FOR THE UNCTAD NEGOTIATIONS. ELEVEN PRINCIPLES
WERE ELABORATED BASED ON PAPER PREPARED BY THE U.S.
ONE MAJOR ISSUE WAS THE TREATMENT OF INTRA-CORPORATE
PRACTICES. THE U.S. PUT FORWARD ITS POSITION THAT
RBPS (AND RELEVANT SECTION OF CODE) CAN APPLY ONLY TO
TRANSACTIONS BETWEEN "INDEPERDENT" ENTERPRISES, AND
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 OECD P 07206 02 OF 02 111525Z

NOT, FOR EXAMPLE, TO TRANSACTIONS BETWEEN PARENT AND

SUBSIDIARY. FOLLOWING MUCH DEBATE FOUR COUNTRIES (UK, SWITZERLAND, FRG, NETHERLANDS) SUPPORTED OUR POSITION WITH THREE OPPOSED (CANADA, FRANCE, FINLAND) AND SEVERAL RESERVING. THIS ISSUE WAS LEFT IN BRACKETS FOR FURTHER CONSIDERATION PRIOR TO THE UNCTAD MEETING. A SECOND ISSUE WAS THE PROBLEM OF DEFINING WHAT IS MEANT BY "UNREASONABLE" RBPS. IN SOME OF THE RBPS INCLUDED IN THE GROUP B PAPER, LANGUAGE WAS ADDED WHICH INDICATES WHEN CERTAIN PRACTICES ARE JUSTIFIED. THREE NEW PRACTICES WERE ADDED WITH REGARD TO RESTRICTIONS ON RESEARCH AND DEVELOPMENT, ADAPTATION OR INNOVATION OF TECHNOLOGY BY THE LICENSEE, AND USE OF PERSONNEL DESIGNATED BY THE LICENSOR. THIS NEW LIST OF 11 RBPS TOGETHER WITH THE ANALYSIS OF ARGUMENTS ON THE LDC PROPOSALS SHOULD SERVE GROUP B WELL IN FORTHCOMING NEGOTIATIONS.

7. LASTLY, AGREEMENT WAS REACHED ON SEVERAL TACTICAL AND ORGANIZATIONAL MATTERS FOR PURPOSES OF THE UNCTAD MEETING. TURNER

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: STANDARDS, POLICIES, TECHNOLOGICAL EXCHANGES, INFORMATION CONTROL, COMMITTEE MEETINGS, MEETING REPORTS
Control Number: n/a
Copy: SINGLE
Sent Date: 11-Mar-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977OECDP07206
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770084-0904
Format: TEL
From: OECD PARIS
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770369/aaaacint.tel
Line Count: 190
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: c3c6bab9-c288-dd11-92da-001cc4696bcc
Office: ACTION OES
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 04-Feb-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3135677
Secure: OPEN
Status: NATIVE
Subject: GROUP B MEETING ON CODE OF CONDUCT FOR TRANSFER OF TECHNOLOGY IN AD HOC POLICY GROUP ON MNES OF OECD COMMITTEE ON SCIENCE AND TECHNOLOGY POLICY
TAGS: TECH, ETRD, OECD
To: STATE
Type: TE
vdkgvkey: odbcr://SAS/SAS.dbo.SAS_Docs/c3c6bab9-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009